
**BZA-1910 & BZA-1911
WALK HIS WAY, LLC
Special Exception & Variance**

**STAFF REPORT
July 17, 2014**

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who is the owner and represented by attorney Stuart Boehning of Bennett, Boehning & Clary, is requesting a special exception (BZA-1910) to operate an adult day care center (SIC 8322) from 7:30AM to 5:30PM, Monday through Friday.

Petitioner has also filed the following three variance requests (BZA-1911):

1. A front setback variance of 24.125' instead of the required 40' from Salisbury Street;
2. A rear setback of 12.31' instead of the required 25'; and
3. A variance to permit parking in the 5' no-parking setback along Lindberg Road.

The site is located at the northwest corner of Lindberg Road and Salisbury Street, commonly known as 600 Lindberg Road, West Lafayette, Wabash 7 (SE) 23-4.

AREA ZONING PATTERNS:

This site was just rezoned by the West Lafayette City Council from R1 to R3W; the rezone included a commitment stating that the only permitted use on the property shall be an adult day care (Z-2571). Land surrounding on all sides is zoned R1, Single-family Residential.

AREA LAND USE PATTERNS:

The site in question has a single-family home and detached garage. Other single-family homes, both rentals and owner-occupied, are located to the north and west. A church is located to the east across Salisbury as well as southwest across Lindberg. The West Lafayette Community School Corporation owns the building southeast across the intersection of Lindberg and Salisbury.

TRAFFIC AND TRANSPORTATION:

Traffic counts taken in 2013 along Salisbury show that an average of over 14,000 vehicles use this road daily; counts taken in 2010 along Lindberg Road show an average daily traffic count of nearly 6,000 vehicles. Per *The Thoroughfare Plan*, Salisbury and Lindberg are both classified as urban secondary arterials requiring a 40' building setback. West Lafayette will be working on the traffic signal at this intersection and road construction of Salisbury north of Lindberg is underway.

The West Lafayette Administrative Officer has approved the amount of parking spaces shown on the site plan per the UZO parking requirement; nine parking spaces will be provided. There will be one entrance from Lindberg which will provide access to the parking lot and the drop-off area. A paved turnaround will be at the southeast corner of the site. Only two or three of the parking spaces are within the "5' no-parking setback" from Lindberg; as the lot widens to the east, the angled spaces are further away from the right-of-way and meet the 5' parking space setback.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

City utilities serve the site; no buffering is required between R1 and R3W zoning.

STAFF COMMENTS:

Joyful Journey, an adult day care service, is a non-medical, not-for-profit social daycare program for those adults age 18 and over who are unable to stay home alone safely during the day. At full capacity, the center anticipates serving 25 guests throughout the week. Patrons who might benefit from this service include those with Alzheimer's, Parkinson's, dementia, autism and Down Syndrome. Future clients would be those adults who might otherwise have to enter a nursing home prematurely due to caregiver fatigue or unsafe conditions.

Regarding the variances: Because this lot is located at the corner of two urban secondary arterials requiring a 40' building setback on both frontages, petitioner is requesting three variances: variance #1 would legitimize the existing structure's setback along Salisbury of 24.125' and allow an addition at a setback of 29'. Variance #2 would allow for an addition to be constructed on the west side of the home in the rear setback. Currently, a detached garage is located in this area and appears to be closer to the rear lot line than the 10' required by the ordinance. The addition would be farther from the west lot line with a setback of 12.31'. Variance #3 would permit parking within the 5' no-parking setback along Lindberg Road.

Staff recognizes that an irregularly-shaped lot along two secondary arterials presents challenges when redeveloping a corner property. Staff can support request #1 because it merely legitimizes a long standing non-conforming setback and allows an addition 5' father from the right-of-way. Request #2 would allow a building addition 12.31' from the western (rear) lot line. While the existing detached garage is located at a setback of 10', and the proposed addition will be farther from the property line (at a little over 12'), adequate room exists on the northern side of the home for a building addition that would comply with the ordinance; therefore, staff can find no hardship. Similarly, request #3 could be eliminated if the footprint were redesigned and moved farther north. This change would likely place the required parking outside of the 5' no-parking setback and no variance would be needed.

Regarding the special exception: The existing home would be retrofitted to accommodate the center by remodeling the interior, adding a significant addition and constructing a parking lot with a drop-off area. The building has been designed to portray the aesthetic of a typical neighborhood home rather than that of a business. The hours of operation are also in keeping with the residential nature of the area- 7:30AM to 5:30PM, Monday through Friday. Landscaping, fencing and residential style lighting will also help maintain the residential character of the area. In addition to helping the proposed use blend in to the surrounding residential uses, petitioner had a rezone commitment approved by both APC and the West Lafayette City Council limiting the use of this property to an adult day care.

At its meeting on July 2, 2014 the Executive Committee of the Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan.

Regarding the ballot items for the variance requests (BZA-1911):

1. The Area Plan Commission at its July 16, 2014 meeting determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion that:

2. Regarding all three variances, granting these variances **WILL NOT** be injurious to the public health, safety, and general welfare of the community. The setback along Salisbury will continue to have no negative impact to the home to the north or the travelling public; sufficient vision clearance exists for vehicles pulling out onto the street (#1). The proposed rear setback of 12.31' is a greater distance than the existing setback of the garage that is to be removed (#2). Parking in the 5' no-parking setback along Lindberg will not be injurious because there is ample grassed area between the property line and the sidewalk; no parked vehicles will protrude over the sidewalk (#3).
3. Use and value of the area adjacent to the property included in the variance requests **WILL NOT** be affected in a substantially adverse manner. The addition will not extend farther towards Salisbury than the existing non-conforming home. It will continue to have minimal impact on the neighboring property to the north (#1 setback along Salisbury). Request #2 (rear setback) will provide for a larger setback from the neighboring property to the west than what exists currently. Request #3 (5' no-parking) will allow parking in the 5' no-parking setback along Lindberg and will have no negative impact on the adjacent properties.
4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district. Regarding all three variances, this situation is different because it is located at the corner of two urban secondary arterials requiring a 40' building setback, though outside of the urbanized sewer district, where urban zoning districts and average setbacks are not permitted. Additionally, this irregularly shaped lot has a corner with an acute angle further restricting the buildable area as well as the area available to park cars.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance with regard to variances #2 (rear setback) and #3 (5' no-parking). While petitioners want to save the existing house and build around it, the footprint could be redesigned to utilize buildable area on the north side of the lot. A hardship **WILL** result by strict application of the zoning ordinance for variance #1 (setback along Salisbury). The home has been here for many years and the variance would legitimize a long standing non-conforming setback. Staff is unaware of any complaints regarding this non-conforming setback.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved in request #1 (setback along Salisbury) **IS NOT** self-imposed because the setback variance would legitimize a long standing non-conforming setback. The hardship involved in requests #2 (rear setback) and #3 (5' no-parking) **IS** self-imposed. If the footprint were redesigned to take advantage of buildable area on the north side of the lot, the 5' no-parking setback and western building setback could be met.

5b. The variance sought **DOES** provide only the minimum relief needed to alleviate the hardship. Variance #1 would legitimize the existing house and allow for an addition to be built. However, variances #2 and #3 **DO NOT** provide minimum relief needed to alleviate the hardship because the footprint could be redesigned to meet the setback and maintain the 5' no-parking setback.

Regarding the ballot items for the special exception (BZA-1910):

1. Section 3.1 of the Unified Zoning Ordinance **DOES** authorize the special exception for an adult day care operation (SIC 8322) in the R3W zoning district.

And it is staff's opinion that:

2. The requirements and development standards for the requested use as prescribed by the Unified Zoning Ordinance **WILL** be met, provided that the 3 variances (BZA-1911) are approved. The parking standard for this use is 15% to 30% of the total occupancy as approved by the Administrative Officer. Per the site plan, 8 spaces and 1 handicapped space will be provided thus meeting the parking requirement.
3. Granting the special exception **WILL NOT** subvert the general purposes served by the Ordinance. The existing home will be remodeled and additions will be constructed on the north and west sides. The planned adult day care will be open Monday through Friday from 7:30AM to 5:30PM and will not be intrusive to the surrounding homes.
4. Granting the special exception **WILL NOT** materially and permanently injure other property or uses in the same district and vicinity because of:
 - a. Traffic generation: Most families will drop off and pick up clients at the front door. The 9 parking spaces will be sufficient and a turnaround in the parking area will aid in traffic circulation.
 - b. Placement of outdoor lighting: Outdoor lighting on automatic sensors would be residential in design and would not exceed 100 watts, which is typical of a residential area.
 - c. Noise production: The only source of noise would be generated by families and clients which would be similar to the surrounding residential uses.
 - d. Hours of operation: The hours (7:30AM to 5:30PM) would ensure the use fits in with the residential character of the neighborhood.

STAFF RECOMMENDATION:

For BZA-1911:

Variance #1 (setback variance along Salisbury): Approval

Variance #2 (rear setback variance): Denial

Variance #3 (5' no-parking variance): Denial

Note: If any of these variances are denied, a new conforming site plan must be submitted before the special exception can be heard.

For BZA-1910:

Special Exception: Approval

Note: A special exception approval ceases to be valid if the use is not established within one year of the date that the special exception was granted.